

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

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IN THE MATTER OF)
)
REX KING and MARILYN LEE KING,)
PALLETIZED TRUCKING, INC.,)
BAPTIST FOUNDATION OF TEXAS,)
MERCHANTS FAST MOTOR LINES, INC.,)
and TRUCKING PROPERTIES, INC.,)
)
RESPONDENTS)
)
REGARDING THE)
)
SOUTH CAVALCADE STREET SUPERFUND)
SITE)
HOUSTON, HARRIS COUNTY, TEXAS)
)
Proceeding Under the Authority of)
Section 122(g)(4) of the)
Comprehensive Environmental)
Response, Compensation, and)
Liability Act of 1980, as Amended,)
42 U.S.C. § 9622(g)(4))

DOCKET NUMBER
CERCLA 6-08-92

ADMINISTRATIVE ORDER
ON CONSENT

I. JURISDICTION

1. This Administrative Order on Consent ("Consent Order") is issued and entered into pursuant to the authority vested in the President of the United States by Section 122(g)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), Pub. L. No. 99-499, 42 U.S.C. 9622(g)(4), to reach settlements in actions under Section 106 or 107(a) of CERCLA, 42 U.S.C. 9606 or 9607(a) in matters involving de minimis parties. The authority vested in the President has been delegated to the Administrator of EPA by Executive Order 12580, 52 FR 2923 (Jan. 29, 1987) and further delegated to the Regional Administrators of the EPA by EPA Delegation No. 14-14-E (Sept. 13, 1987).

2. This Consent Order is issued to and entered into by Trucking Properties, Inc. (successor by change of corporate name to Merchants, Inc.), a corporation organized under the laws of the State of Delaware; Merchants Fast Motor Lines, Inc. ("Merchants Fast"), a corporation organized under the laws of the State of Delaware; Baptist Foundation of Texas, a non-profit corporation organized under the Texas Non-Profit Corporation Act; and Mr. Rex King, Mrs. Marilyn Lee King, and Palletized Trucking, Inc., a corporation organized under the laws of the State of Texas ("Respondents").

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3. The purposes of this Consent Order are to expedite payment into the Hazardous Substance Response Trust Fund pursuant to 42 U.S.C. § 9609(b)(2) of all of the response costs incurred by the government in remediation of the South Cavalcade Street Superfund Site ("Site") which have not already been recovered, preserve the government's right of access to the Site, provide notice to the public of the resolution of environmental matters at the Site, and recite the rights and responsibilities of the Parties hereto. The Parties agree to undertake all actions required by the terms and conditions of this Consent Order. The Respondents consent to and will not contest the U.S. Environmental Protection Agency's ("EPA") jurisdiction to issue this Consent Order and to implement or enforce its terms.

II. DEFINITIONS

4. Unless otherwise expressly provided herein, terms used in this Consent Order which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in the statute or its implementing regulations. Whenever terms listed below are used in this Consent Order or in the documents attached to this Consent Order or incorporated by reference into this Consent Order or in schedules and deadlines established and approved pursuant to this Consent Order, the following definitions apply:

- A. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986).
- B. "Consent Decree" shall mean the agreement between Beazer East, Inc. and the United States of America (Civil Action No. H-90-2406) which was entered in the United States District Court for the Southern District of Texas on March 14, 1991, for the conduct of the Remedial Action described in the South Cavalcade Street site Record of Decision (ROD), Statement of Work (SOW), and other plans submitted pursuant to the requirements of the Consent Decree.
- C. "Consent Order" shall mean this document and all attachments hereto and any further submittal(s) required pursuant to this Consent Order. Such further submittal(s) shall be incorporated into and become a part of this Consent Order upon final written approval by EPA of such submittal(s).
- D. "Day" shall mean calendar day unless expressly stated to be a business day. "Business day" shall mean a day other than a Saturday, Sunday, or Federal holiday. In

computing any period of time under this Consent Order, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the end of the next business day.

- E. "EPA" shall mean the United States Environmental Protection Agency.
- F. "National Contingency Plan" or "NCP" shall mean the National Contingency Plan promulgated pursuant to § 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, including any amendments thereto.
- G. "Paragraph" shall mean a portion of this Consent Order identified by an arabic numeral.
- H. "RCRA" shall mean the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq.
- I. "Record of Decision" or "ROD" shall mean the document signed by the EPA Region 6 Regional Administrator on September 26, 1988, which describes the Remedial Action to be conducted at the South Cavalcade Superfund Site.
- J. "Respondents" shall mean Rex King and Marilyn Lee King, Palletized Trucking, Inc., Baptist Foundation of Texas, Merchants Fast Motor Lines, Inc., and Trucking Properties, Inc.
- K. "Response Costs" shall mean all administrative, enforcement, investigative, remedial, and removal costs, direct or indirect, incurred pursuant to CERCLA, 42 U.S.C. § 9601 et seq.
- L. "Section" shall mean a portion of this Consent Order identified by a Roman numeral and including one or more paragraphs.
- M. "Site" shall mean the South Cavalcade Street Superfund Site encompassing approximately sixty-six (66) acres located in northeast Houston, Texas approximately one mile southwest of the intersection of Interstate Loop 610 and U.S. Route 59. The Site boundaries are Cavalcade Street to the north, Collingsworth Street to the south, and the Missouri and Pacific Railroad lines to the east and west. The legal description of the site is provided in Appendix B of the Consent Decree between EPA and Beazer East, Inc.
- N. "State" shall mean the State of Texas.

- O. "Statement of Work" or "SOW" shall mean Appendix C of the Consent Decree between EPA and Beazer East, Inc.
- P. "TWC" shall mean the Texas Water Commission.
- Q. "Underground Storage Tank" or "UST" shall be used as that term is defined in 40 C.F.R. § 280.12.
- R. "United States" shall mean the United States of America.

III. STATEMENT OF FACTS

5. National Lumber and Creosoting Company acquired legal title to the Site in 1910 and constructed and operated a wood treating and coal tar distillation facility. National Lumber and Creosoting Company was acquired in 1938 by the Wood Preserving Corporation, a subsidiary of Koppers Company. In 1940, the Wood Preserving Corporation became a part of Koppers Company. In 1944, Koppers Company was incorporated and became Koppers Company, Inc. and continued the use of the Site as a wood preserving and coal tar distillation facility until 1962.

6. In 1962, the Koppers Company, Inc. ceased operating the wood preserving and coal tar distillation facility, dismantled the facility, and sold the Site to Merchants Fast. Merchants Fast then sold the Site to Gene Whitehead later in 1962. Mr. Whitehead subdivided the Site and sold 24.525 acres of the Site to Merchants Fast on January 1, 1965, and another 8.565 acres of the Site to Merchants Fast on March 25, 1965. Mr. Whitehead sold another 22.5 acres of the Site to Transcon Lines ("Transcon") in 1969. Transcon subsequently sold this 22.5 acre tract of land to the Baptist Foundation of Texas in 1970. Mr. Whitehead also sold 10.346 acres of the Site to Collingsworth Properties, Inc. ("Collingsworth Properties") in 1973. Collingsworth Properties subsequently sold this 10.346 acre tract of land to Rex King and wife, Marilyn Lee King in 1977. Merchants Fast sold 33.104 acres of the Site to Merchants, Inc. (the predecessor by corporate name change to Trucking Properties, Inc.) on August 8, 1979.

7. The Site is presently owned by Trucking Properties, Inc., Baptist Foundation of Texas, and Rex King and wife, Marilyn Lee King. The southeastern portion of the Site is currently used by a commercial trucking company known as Palletized Trucking, Inc., which operates a terminal for trucking operations. The southwestern portion of the Site is a vacant trucking terminal facility which was formerly owned and operated by Merchants Fast Motor Lines, Inc. The northern portion of the Site is used by Northwest Transport Service, Inc. and contains a terminal for trucking operations. The central portion of the Site is not currently used.

8. Hazardous substances within the definition of CERCLA Section 101(14), 42 U.S.C. § 9601(14), have been or are threatened to be released into the environment at or from the Site. A description of the specific contaminants detected at the site is provided in the Record of Decision.

9. As a result of the release or threatened release of hazardous substances into the environment, EPA has undertaken response action at the Site under Section 104 of CERCLA, 42 U.S.C. 9604, and where necessary, will undertake response action in the future.

10. EPA proposed the Site to be added to the National Priorities List ("NPL") in October 1984, and the Site was formally added to the NPL on June 10, 1986.

11. The Koppers Company, Inc. began the Remedial Investigation and Feasibility Study ("RI/FS") in November of 1985. The Remedial Investigation included investigations into contamination in soils, ground water, surface water and sediments, and air. The Feasibility Study ("FS") evaluated several methods for remediating the Site, including containment and treatment technologies. The RI/FS was completed in August 1988 with the publishing of the Remedial Investigation and Feasibility Study Reports.

12. The FS evaluated several methods for remediating the Site and included a Public Health and Environmental Assessment ("PHEA") of the Site. After public comment on the proposed remediation, the Record of Decision (ROD) was completed and signed on September 26, 1988. The remedial action selected by EPA in the ROD included a combination of soil washing and in situ soil flushing for remediating contaminated soils and physical/chemical separation followed by filtration and activated carbon adsorption for remediating contaminated groundwater.

13. In performing this response action, EPA has incurred response costs at or in connection with the Site in the amount of \$584,651.76.

14. Beazer East, Inc. ("Beazer") is the corporate successor to National Lumber and Creosoting Company, The Wood Preserving Corporation, and Koppers Company, Inc. Beazer has agreed to conduct and finance the entire remedial action at the Site and to pay \$500,000 of EPA's past response costs as set forth in a Consent Decree, Civil Action No. H-90-2406, United States of America vs. Beazer East, Inc., entered in the United States District Court for the Southern District of Texas on March 14, 1991.

15. Respondents represent, and for the purposes of this Consent Order EPA affirms and finds, that (a) the \$84,651.76 payment required to be made by Respondents pursuant to Paragraph 29

of this Consent Order involves only a minor portion of the response costs at the Site, and that, (b) with respect to the Respondents, the conditions set forth in CERCLA 122(g)(1)(A) are met.

16. Respondents represent, and for the purposes of this Consent Order EPA affirms and finds, that (a) Respondents' involvement with the Site is limited to purchasing all or a portion of the Site and operation or leasing for the operation of a trucking terminal at the site, (b) the amount of the hazardous substances contributed to the Site by the Respondents, if any, is minimal in comparison to other hazardous substances at the Site, and (c) the toxic or other hazardous effects of the substances contributed by the Respondents to the Site, if any, are minimal in comparison to other hazardous substances at the facility.

IV. DETERMINATIONS

Based upon the Statements of Fact set forth above and on the administrative record for this Site, EPA has determined that:

17. The Site as described in Section III of this Consent Order is a "facility" as that term is defined in Section 101(9) of CERCLA, 42 U.S.C. 9601(9).

18. Respondents are "persons" as that term is defined in Section 101(21) of CERCLA, 42 U.S.C. 9601(21).

19. Respondents are "owners" of a facility within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. 9607(a)(1), and are "potentially responsible parties" within the meaning of Section 122(g)(1) of CERCLA, 42 U.S.C. 9622(g)(1).

20. The past, present, or future migration of hazardous substances from the Site constitutes an actual or threatened "release" as that term is defined in Section 101(22) of CERCLA, 42 U.S.C. 9601(22).

21. Prompt settlement with the Respondents is practicable and in the public interest within the meaning of Section 122(g)(1) of CERCLA, 42 U.S.C. 9622(g)(1).

22. This Consent Order involves at most only a minor portion of the response costs incurred and to be incurred at the Site pursuant to Section 122(g)(1) of CERCLA, 42 U.S.C. 9622(g)(1).

23. Respondents are eligible for a de minimis settlement pursuant to section 122(g)(1)(A) of CERCLA, 42 U.S.C. 9622(g)(1)(A).

V. ORDER

24. Based upon the administrative record for this Site and the Statement of Facts and Determinations set forth above, and in consideration of the promises and covenants set forth herein, it is hereby AGREED TO AND ORDERED:

VI. ACCESS AND NOTICE

25. Respondents hereby grant to EPA, its employees, representatives, contractors, agents, and all other persons performing response actions under EPA's oversight, a right of access to the Site for the purposes of monitoring the terms of this Consent Order and performing response actions at the Site. Nothing herein shall limit EPA's right of access under applicable law.

26. Within 60 days of the effective date of this Consent Order, Respondents shall file in the land records of Harris County a notice, approved by EPA, to subsequent purchasers of the land, that hazardous substances were disposed of and will continue to remain in both the soils and ground water at the Site. This notice shall indicate that the development of the Site for residential use is inappropriate due to the continuing presence of hazardous substances at the site. This notice shall also include a copy of this Consent Order and the Consent Decree between EPA and Beazer East, Inc. In addition, within 10 days of filing of such notice, Respondents shall provide documentation to EPA verifying that they have filed the required notice pursuant to this paragraph.

27. Nothing in this Consent Order shall in any manner restrict or limit the nature or scope of response actions which may be taken by EPA in fulfilling its responsibilities under federal law. Respondents recognize that the implementation of response actions at the Site may interfere with the use of their property. EPA, its employees, representatives, contractors, agents, and all other persons performing response actions under EPA's oversight shall use their best efforts not to unreasonably interfere with the operations of the Respondents or their tenants by any such entry and actions, and will use their best efforts to give the Respondents reasonable notice prior to such entry. Respondents agree to cooperate with EPA in the implementation of response actions at the Site and further agree not to interfere with such response actions.

VII. DUE CARE

28. Nothing in this Consent Order shall be construed to relieve Respondents of their duty to exercise due care with respect to hazardous substances at the Site or their duty to comply with all applicable laws and regulations. Such due care shall include, but not be limited to (a) preventing the installation of water wells on the Site except for the purpose of conducting

investigation, remediation, or other activities authorized by EPA, (b) preservation, protection, repair, and maintenance of concrete foundations, parking areas, and other paved areas currently existing and under which hazardous substances remain, and (c) compliance with applicable laws and regulations applicable to the installation, maintenance, operation, or closure of existing underground storage tanks ("UST") on the Site. Respondents shall provide notice to EPA concurrent with any required notice to the Texas Water Commission ("TWC") prior to closure of any UST on the Site. EPA will provide notice of and an opportunity to cure any violation of subparagraph 28(b) provided that such violation is not caused by the Respondents. This opportunity to cure shall not exceed 10 days, and stipulated penalties shall start accruing on the eleventh (11th) day following the date of notice of violation if the violation continues.

VIII. PAYMENT

29. Respondents shall pay the sum of \$84,651.76 to the Hazardous Substance Response Trust Fund within 30 days of the effective date of this Consent Order.

30. The payment specified in Paragraph 29 shall be made by certified or cashier's check(s) payable to "EPA Hazardous Substance Superfund." Each check shall reference the site name, the name and address of the Respondents, and the EPA docket number for this action, and shall be sent to:

Regional Hearing Clerk (6C)
U.S. Environmental Protection Agency
Region 6
P.O. Box 360582M
Pittsburgh, Pennsylvania 15251

Respondents shall simultaneously send a copy of each check to those EPA representatives designated in Section XVI.

IX. CIVIL AND STIPULATED PENALTIES

31. For each failure by a Respondent to meet any requirement in this Consent Order, such Respondent shall pay stipulated penalties in the amount set forth below for each day, or part thereof, during which the violation continues:

<u>Period of</u> <u>Failure to Comply</u>	<u>Penalty Per</u> <u>Violation Per Day</u>
1st through 7th day	\$ 5,000
8th through 14th day	\$10,000
15th through 21st day	\$15,000
22nd through 28th day	\$20,000
29th day and beyond	\$25,000

32. In addition to the penalties listed in paragraph 31 and any other remedies or sanctions available to EPA, a civil penalty of up to \$25,000 per day may be assessed against a Respondent for each failure or refusal by such Respondent to comply with any term or condition of this Consent Order pursuant to Section 122(1) of CERCLA, 42 U.S.C. 9622(1).

33. Stipulated and civil penalties shall be paid by certified or cashier's check within 30 days of receipt of a demand letter for payment or within 30 days of final dispute resolution, whichever comes later.

34. Docket No. CERCLA 6-08-92 should be clearly typed on the check to ensure proper credit.

35. Each check for stipulated or civil penalties shall be made payable to the Hazardous Substance Superfund and sent to:

Regional Hearing Clerk (6C)
U.S. Environmental Protection Agency
Region 6
P.O. Box 360582M
Pittsburgh, Pennsylvania 15251

Respondents shall simultaneously send a copy of the check and a transmittal letter which includes a brief description of the violation to those representatives of EPA designated in Section XVI.

X. DISPUTE RESOLUTION

36. The parties shall use their best efforts to resolve all disputes or differences of opinion informally. If, however, the parties are unable to resolve such matters informally, then the position advanced by EPA shall be considered binding unless the Respondents invoke the dispute resolution provisions of this Section.

37. If Respondents disagree with EPA's assessment of stipulated penalties pursuant to Section IX of this Consent Order, respondents shall notify EPA in writing of their objections and the basis therefore within 7 calendar days of receipt of EPA's demand for payment. Said notice shall set forth the specific points of the dispute and state the basis for the Respondents' position. Within 10 days of EPA's receipt of such written notice, EPA shall provide to Respondents its decision on the pending dispute.

38. EPA's decision pursuant to paragraph 37 shall be binding upon all parties to this Consent Order, unless Respondents, within 7 days, notify EPA in writing of their continued objections and request the Hazardous Waste Management Division Director for Region 6 to convene an informal conference for the purpose of discussing

Respondents' objections and the reasons for EPA's determination. The Hazardous Waste Management Division Director shall issue a written decision within 10 days from the date of the informal conference.

39. Except as set forth below, in any dispute, Respondents shall have the burden of showing that EPA's position, including without limitation any interpretation of the terms and conditions of this Consent Order and of applicable federal and state law and regulations, was arbitrary and capricious or otherwise not in accordance with law.

40. The existence of a dispute as defined herein, and EPA's consideration of such matters as placed into dispute shall not excuse, toll, or suspend any compliance obligation or deadline required pursuant to this Consent Order. During the pendency of the dispute resolution process, stipulated penalties with respect to the disputed issue shall accrue, but payment of stipulated penalties shall be stayed pending resolution of the dispute. Stipulated penalties shall be calculated for each day of non-compliance with this Consent Order beginning with the first day of non-compliance and including the period during which the Dispute Resolution procedures were on-going. If, however, the dispute is ultimately resolved in Respondents' favor, no stipulated penalties shall be due.

41. Notwithstanding any other provisions of the Consent Order, no action or decision by EPA, including without limitation, decisions of the Regional Administrator of Region 6 (or his designee), pursuant to this Consent Order shall constitute final agency action giving rise to any rights to judicial review prior to EPA's initiation of judicial action to compel Respondents' compliance with the mandates of this Consent Order.

42. Unless otherwise specifically set forth herein, the failure to provide expressly for dispute resolution in any section of this Consent Order is not intended and shall not bar Respondents from invoking this Section as to any dispute arising under this Consent Order. However, no dispute resolution decisions issued pursuant to this Section shall be subject to this dispute resolution section.

XI. CERTIFICATION OF RESPONDENTS

43. The Respondents certify that to the best of their knowledge and belief they have provided to the United States all information currently in their possession and in the possession of their agents, officers, directors, employees, or contractors which relates in any way to the ownership, operation, generation, treatment, transportation, or disposal of hazardous substances at or in connection with the site.

XII. COVENANT NOT TO SUE

44. Subject to the reservation of rights in Section XIII of this Consent Order, upon payment of the amounts specified in Paragraph 29, Section VIII, of this Consent Order, EPA covenants not to sue or take any other civil or administrative action against the Respondents for any and all civil liability pursuant to Sections 106 or 107(a) of CERCLA, 42 U.S.C. 9606 or 9607(a), or Section 7003 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6973, with regard to the Site.

45. In consideration of EPA's covenant not to sue in Paragraph 44, Section XII, of this Consent Order, the Respondents agree not to assert any claims or causes of action against the United States or its contractors or its employees or the Hazardous Substance Superfund arising out of expenses incurred or payments made pursuant to this Consent Order, or to seek any other costs, damages, or attorney's fees from the United States or its contractors or employees arising out of response activities at the Site.

XIII. RESERVATION OF RIGHTS

46. Nothing in this Consent Order is intended to be nor shall it be construed as a release or covenant not to sue any Respondent(s) for any claim or cause of action, administrative or judicial, at law or in equity, which the United States, including EPA, may have against any such Respondent(s) for:

(a) Any liability as a result of failure to comply with this Consent Order;

(b) Any liability as a result of failure to make the payments required by Paragraph 29, section VIII, of this Consent Order;

(c) Any liability as a result of any future failure to exercise due care with respect to hazardous substances at the Site;

(d) Any liability resulting from any future exacerbation by Respondents of the release or threat of release of hazardous substances from the Site;

(e) Any and all criminal liability; or

(f) Any matters not expressly included in the covenant not to sue set forth in this Consent Order.

47. Nothing in this Consent Order constitutes a covenant not to sue or to take action or otherwise limits the ability of the United States, including EPA, to seek or obtain further relief from the Respondents, and the covenant not to sue in Paragraph 44, Section XII, of this Consent Order may be modified or declared to

be null and void at the discretion of EPA, if information materially different from that specified in Section III is discovered which indicates that Respondents fail to meet any of the criteria specified in section 122(g)(1)(A) of CERCLA.

48. Except as otherwise expressly provided in Paragraph 44, Section XII, of this Consent Order, nothing in this Consent Order is intended as a release or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the United States, including EPA, may have against any person, firm, corporation or other entity not a signatory to this Consent Order.

49. EPA and Respondents agree that the actions undertaken by the Respondents in accordance with this Consent Order do not constitute an admission of any liability by the Respondents. The Respondents do not admit and retain the right to controvert in any subsequent proceedings, other than proceedings to implement or enforce this Consent Order, the validity of the Statement of Facts or Determinations contained in this Consent Order.

XIV. CONTRIBUTION PROTECTION

50. Subject to the reservation of rights in Section XIII, of this Consent Order, EPA agrees that by entering into and upon carrying out the terms of this Consent Order, Respondents will have resolved their liability to the United States for those matters set forth in the covenant not to sue, Paragraph 44, Section XII, as provided by section 122(g)(1) of CERCLA, 42 U.S.C. 9622(g)(5), and shall have satisfied their liability for those matters within the meaning of section 107(a) of CERCLA, 42 U.S.C. 9607(a) and are entitled to contribution protection under CERCLA Section 113(f)(2), 42 U.S.C. 9613(f)(2).

XV. PARTIES BOUND

51. This Consent Order shall apply to and be binding upon and inures to the benefit of the Respondents and their officers, directors, shareholders, employees, agents, affiliates, successors (including, but not limited to successors-in-title), heirs, and assigns. The signatories represent that they are fully authorized to enter into the terms and conditions of this Consent Order and to legally bind the Respondents. Notwithstanding the foregoing, Merchants Fast does not currently own or operate any portion of the Site, and, as a result, Merchants Fast has no current duties or obligations under Paragraphs 25, 26, 27, 28, 52, and 53 of this Consent Order, and Merchants Fast shall have no liability based solely on the failure of any other Respondent to fulfill its duties and obligations under such Paragraphs.

52. In the event that Respondents transfer title or possession of the Site, they shall notify the EPA at least 30 days

prior to any such transfer and shall continue to be bound by all of the terms and conditions of this Consent Order unless EPA agrees otherwise and modifies this Consent Order accordingly.

53. In the event that Respondents transfer title or possession of the Site, they shall provide any such transferee with a copy of this Consent Order together with a written notice stating that such transferee (a) is subject to all of the requirements of the Consent Order including, without limitation, the requirement to provide EPA continuing access to the property for the purposes of monitoring its environmental status, taking remedial action, implementing or enforcing the terms of this Consent Order, or otherwise discharging EPA's regulatory responsibilities, and (b) is required to exercise continuing due care, as described in Section VII, in avoiding future releases from the Site. In addition, in no event shall the conveyance of any interest in property that includes, or is a portion of, the Site release or otherwise affect the liability of the Respondents to comply with this Consent Order.

XVI. FORM OF NOTICE

54. All notices required to be given pursuant to this Consent Order shall be in writing, unless otherwise expressly authorized. Notices or submissions required by this Consent Order shall be deemed timely if deposited with the United States Postal Service or an equivalent delivery service on or before the due date. Response times under this Consent Order shall run from the date of receipt, unless otherwise specified. Documents, notices, and other correspondence to be submitted pursuant to this Consent Order shall be sent by certified mail, return receipt requested, express mail service, or some equivalent delivery service providing proof of delivery to the following addresses or to such other addresses as the Parties hereafter may designate in writing:

As to the Environmental Protection Agency

Mark Fite
Remedial Project Manager (6H-SC)
U.S. Environmental Protection Agency
1445 Ross Ave.
Dallas, Texas 75202-2733
Fax: (214) 655-6460

Marvin Benton
Assistant Regional Counsel (6C-WT)
U.S. Environmental Protection Agency
1445 Ross Ave.
Dallas, Texas 75202-2733
Fax: (214) 655-2182

As to Respondents

Calvin Reeves
 Vice President and General Counsel
 Baptist Foundation of Texas
 2001 Bryan, Suite 1500
 Dallas, Texas 75201-3082
 Fax: (214) 978-3395

Gary Armstrong
 President
 Merchants Fast Motor Lines, Inc.
 1733 East Highway 80
 Abilene, Texas 79601
 Fax: (915) 674-4608

Rex King
 Palletized Trucking, Inc.
 2001 Collingsworth
 Houston, Texas 77249
 Fax: (713) 225-0110

Robert Sternenberg
 President
 Trucking Properties, Inc.
 2929 Allen Parkway, Suite 2100
 Houston, Texas 77019
 Fax: (713) 520-1041

As to the State

Louis Rogers
 South Cavalcade Superfund Site Coordinator
 Superfund and Emergency Response Section
 Texas Water Commission
 1700 North Congress
 Austin, Texas 78711-3087
 Fax: (512) 463-8408

XVII. PUBLIC COMMENT

55. This Consent Order shall be subject to a thirty-day public comment period pursuant to Section 122(i) of CERCLA, 42 U.S.C. 9622(i). In accordance with Section 122(i)(3) of CERCLA, 42 U.S.C. 9622(i)(3), EPA may withdraw or modify consent to this Consent Order if comments received disclose facts or considerations which indicate that this Consent Order is inappropriate, improper, or inadequate.

XVIII. ATTORNEY GENERAL APPROVAL

56. The Attorney General or his designee has issued prior written approval of the settlement embodied in this Consent Order in accordance with Section 122(g)(4) of CERCLA.

XIX. EFFECTIVE DATE

57. The effective date of this Consent Order shall be the date upon which EPA issues written notice to the Respondents that the public comment period pursuant to Paragraph 55, Section XVII, of this Consent Order has closed and that comments received, if any, do not require modification of or EPA withdrawal from this Consent Order.

ADMINISTRATIVE ORDER ON CONSENT
SOUTH CAVALCADE STREET SUPERFUND SITE
DOCKET NO. CERCLA 6-08-92

IT IS SO AGREED AND ORDERED:

REX KING and MARILYN LEE KING
(for themselves and for
PALLETIZED TRUCKING, INC.)

By: *Rex King*
Mr. Rex King
Owner

Date: 1/14/92

By: *Mrs. Marilyn Lee King*
Mrs. Marilyn Lee King
Owner

Date: 1-14-92

BAPTIST FOUNDATION OF TEXAS

By: *Calvin B. Reeves*
Mr. Calvin Reeves
Vice President and
General Counsel

Date: 1-24-92

MERCHANTS FAST MOTOR LINES, INC.

By: *Gary Armstrong*
Mr. Gary Armstrong
President

Date: 1-23-92

TRUCKING PROPERTIES, INC.

By: *Robert Sternenberg*
Mr. Robert Sternenberg
President

Date: 1/13/92

U.S. ENVIRONMENTAL PROTECTION AGENCY

By: *E. J. Wynne*
E. J. Wynne
Regional Administrator
Region 6

Date: 1-24-92